

HJR

1

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/21/95

FURTHER:

DATE TURNED INTO OFFICE: 2-1-96

The Finance Committee considered **HOUSE JOINT RESOLUTION NO. 1**

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

and recommends:

- be replaced with 5 CS HJR 1 (FIR)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Thayer</i>	✓	<i>David Donley</i>	✓		
<i>Roll E. Reed</i>	✓	<i>Paul F. Harhoff</i>	✓		
<i>Bob Thayer</i>	✓				
Co-Chair: <i>Larry</i>	✓				
Co-Chair: <i>Rick Halford</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>Gov./Elections</i>	<i>1/24/96</i>		<i>2.2</i>

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 1

Revision Date: 1/23/96 Dept. Affected: Office of the Governor
 Title: Constitutional Amendment Re: Repeal of BRU: Elective Operations
regulations by legislature Component: General and Primary Elections
 Sponsor: Representatives Phillips, Rokeberg, et al
 Requester: _____ COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.2					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	2.2	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 1/23/96
 Approved by _____ Date: _____
 Commissioner: Lt. Governor Fran Ulmer *John Sundbuck for* Date: 1/24/96
 Agency: Office of the Lt. Governor

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JCS HOUSE JOINT RESOLUTION NO. 1 *(Fin)*

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PHILLIPS, Rokeberg, Brice, Green, Williams, Therriault

Introduced: 1/16/95

Referred: State Affairs, Judiciary

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska relating to
2 repeal of regulations by the legislature.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. Article II, Constitution of the State of Alaska, is amended by adding a new
5 section to read:

6 SECTION 22. REPEAL OF REGULATIONS. The legislature may, by joint
7 resolution, repeal a regulation adopted by a State department or agency. The repeal
8 of the regulation is effective thirty days after the passage of the resolution by the
9 legislature unless a different ^{prospective} effective date is specified in the resolution.

10 * Sec. 2. The amendment proposed by this resolution shall be placed before the voters of
11 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
12 State of Alaska, and the election laws of the state.

*Sen. Rieger
Amend. - Adopted
4-3*

2-1-96
Approved by
9-LS0007C
both Larry
& Betty

SENATE CS FOR HOUSE JOINT RESOLUTION NO. 1(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES PHILLIPS, Rokeberg, Brice, Green, Williams, Therriault, G.Davis, Ogan

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska relating to
2 repeal of regulations by the legislature.

3 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. Article II, Constitution of the State of Alaska, is amended by adding a new
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7 resolution, repeal a regulation adopted by a State department or agency. The repeal
8 of the regulation is effective thirty days after the passage of the resolution by the
9 legislature unless a different prospective effective date is specified in the resolution.

10 * Sec. 2. The amendment proposed by this resolution shall be placed before the voters of
11 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
12 State of Alaska, and the election laws of the state.

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515



TESTIMONY ON HJR 1

Thank you for the opportunity to provide testimony on House Joint Resolution 1, relating to repeal of regulations by the legislature.

My name is Pamela LaBolle, and I am President of the Alaska State Chamber of Commerce. The State Chamber represents approximately 700 member businesses statewide which provide jobs to nearly 70,000 employees. Our network of representation also includes the 6000 business members of the local Chambers of Commerce throughout Alaska. As the Voice of Business, ASCC's mission is to create a climate in our state that is conducive to a strong private sector economy.

I am here today to speak in support of HJR 1. Reform of the present regulatory system is one of the highest priorities of the Alaska State Chamber of Commerce. Our resolution on this matter asks the legislature and the administration to create a regulatory and economic environment supportive of business development that encourages businesses to locate and grow in Alaska. ASCC's resolution also asks the legislature and the administration to "... provide for an effective oversight mechanism to assure that regulations are producing effective results that follow legislative intent."

A common complaint of the business community is in regards to regulations that ignore or miss the point of the legislation to which the regulations are intended to apply. Presently, the only recourse the legislature has in correcting regulation that is contrary to their intent is to pass further, corrective legislation. However, if the administration is supportive of the regulatory intent, rather than that of the legislature, the governor is able to veto the corrective legislation. In this manner, under the present system, the power of the legislative branch can be usurped by the executive branch of government.

Throughout the legislative process the public has opportunity to provide input on the laws under consideration, and with that, the opportunity to influence the laws by which they must abide. The regulatory process is not nearly so open or receptive to the thoughts of the public, and regulations are sometimes adopted in spite of public sentiment.

HJR 1 provides the public with the opportunity to express their wishes on this matter by placing it before them on the ballot in the next general election. The Alaska State Chamber urges your support of HJR 1.

ALASKA STATE CHAMBER OF COMMERCE

Resolution 96-2

Regulatory Support of Resource and Economic Development

WHEREAS, Alaska is competing in a global economy with increasingly competitive areas working to attract industries and business worldwide; and

WHEREAS, the perception of Alaska as a favorable place to do business is vital to its success in this competitive arena; and

WHEREAS, excessive and burdensome regulation constrains and discourages business;

THEREFORE BE IT RESOLVED that the Alaska State Chamber of Commerce asks the Administration and the State Legislature to focus its efforts toward creating a regulatory and economic environment supportive of business development which encourages businesses to locate and grow in Alaska, and

BE IT FURTHER RESOLVED that the Alaska State Chamber of Commerce also asks that the legislature and administration provide for an effective oversight mechanism to assure regulations are producing effective results which follow legislative intent.

ADOPTED

December 8, 1996

BY Pamela La Bolle

Pamela La Bolle
President

BY Tom Jensen

Tom Jensen
Chair, Board of Directors

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HJR 1

Revision Date: 1/23/96 Dept. Affected: Office of the Governor
 Title: Constitutional Amendement Re: Repeal of BRU: Elective Operations
regulations by legislature Component: General and Primary Elections
 Sponsor: Representatives Phillips, Rokeberg, et al
 Requester: _____ COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	2.2					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2.2	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2.2					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	2.2	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 1/23/96
 Approved by
 Commissioner: Lt. Governor Fran Ulmer *John Sandbach for* Date: 1/24/96
 Agency: Office of the Lt. Governor

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FISCAL NOTE

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: Amendment to the Constitution RE:
Repeal of regulations by legislators.
 Sponsor: Senator Phillips
 Requestor: _____

Department Affected: Office of the Governor
 BRU: Division of Elections
 Component: General and Primary Elections
 COMPONENT SERIAL NO. 12

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	2.2*	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	2.2*	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	2.2*	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY95) impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be \$3.4.

Prepared by: David Koivumaki, Acting Director Phone: 463-4611
 Division: Division of Elections Date: 1-22-95

Approved by Commissioner: Lt. Governor Frank Miller
 Agency: Office of the Lt. Governor Date: _____

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 Rev 12/93 Page 1 of 1

FISCAL NOTE

7. 2
 Bill Version: HJR 1
 (H) Publish Date: 3/1/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to repeal of regulations by the BRU: Legal Services
legislature..." Component: Operations
 Sponsor: Representative Phillips
 Requester: House State Affairs COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

House Joint Resolution No. 1 proposes an amendment to the Constitution of the State of Alaska that would give the legislature the power to repeal a regulation adopted by a state department or agency by joint resolution of the legislature. If the amendment is adopted in the 1996 general election, it will probably not have a direct immediate fiscal impact on the department's operations. The department is statutorily responsible for reviewing all regulations for legality and form to insure consistency with the appropriate enabling legislation. The department also drafts regulations on behalf of some departments and assists other departments in drafting regulations that deal with highly complex matters requiring the attention of an attorney. Obviously, some of the time spent in these efforts will have been lost whenever a regulation has been annulled. Larger departments which have the responsibility for carrying out major state programs, and who routinely draft numerous program operating regulations inhouse, will probably experience an even greater loss of staff time. More importantly, the absence of statutorily mandated regulations, which would occur after annulment, could result in litigation from an adversely impacted industry, public interest group, or a member of the public claiming damages due to the

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 2/13/95
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/13/95
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 1

ANALYSIS CONTINUATION:

absence of required regulations. The impact of such litigation cannot, in this case, be estimated in advance and therefore no cost impact can be shown.

Alaska State Legislature



Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

MEMORANDUM

TO: Senator Rick Halford
Co-Chairman, Senate Finance Committee

Senator Steve Frank
Co-Chairman, Senate Finance Committee

FROM: Representative Gail Phillips
SPEAKER

DATE: January 18, 1996

RE: HJR 1, "Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature."

HJR 1 was passed out of the House on March 24, 1995, and transmitted to the Senate on March 28, 1995. HJR 1 is now before your committee, and I would appreciate your scheduling it for a hearing as soon as possible.

HJR 1 would place before the voters in the next general election a ballot proposition to amend the Alaska Constitution to allow the Legislature to repeal regulations (those which either ignore the legislative directive of the enabling legislation or go beyond the limits of what the Legislature intended) in a much more direct fashion.

The Legislature has approved this ballot measure several times in the past; and, although prior efforts to persuade the voters to support this amendment have failed, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality.

I urge you to support this important resolution. Thank you again for your prompt consideration of this matter.

Alaska State Legislature



Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

SPONSOR STATEMENT

HJR 1 -- "PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO REPEAL OF REGULATIONS BY THE LEGISLATURE"

This Joint Resolution is a proposal to place a Constitutional Amendment before the voters of the State of Alaska on the 1996 General Election ballot. The Amendment would permit the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes.

Many regulations do conform to and accurately implement the laws passed by the Legislature; however, there are an increasing number of situations where regulations imposed on the citizens of the state do not. In many cases, legislative directives are ignored or regulations are promulgated that go far beyond the scope of what the Legislature intended. As you know, once regulations go into effect, they have all the force and effect of law. This is the case even though regulations are promulgated by agency bureaucrats who do not have to answer to the voters.

The Alaska Constitution provides a system of checks and balances among the three branches of government. The people of Alaska have their own check on government through the voting booth, the initiative process, and final authority over amendments to the Constitution.

However, one area that is beyond reasonable access to the people's voice is the tremendous volume of administrative regulations which are proposed by state agencies and written by attorneys at the Department of Law. These regulations affect every aspect of the people's lives, yet the people are virtually powerless to change them. The Constitutional Amendment proposed by HJR 1 would provide the people a reasonable avenue to seek the repeal of improper regulations.

I recognize that this issue has been before the voters three different times, and that prior efforts to persuade the voters to support similar amendments have failed. Nevertheless, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality. Now, more than ever, Alaskans understand how regulations affect their daily lives and I believe they will support this ballot proposition which brings state regulations closer to the people.

I urge your support of this important resolution.

Alaska State Legislature



Official Business
Fax : (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1132
(907) 465-3720
(907) 465-2689

MEMORANDUM

TO: Senate Finance Committee

FROM: Representative Gail Phillips
SPEAKER

DATE: February 1, 1996

RE: HJR 1, "Proposing an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the legislature."

This proposal for an amendment to the Constitution of the State of Alaska to repeal regulations by the Legislature has been placed on the ballot on three previous occasions. The chart below shows the results of those votes. Although prior efforts to persuade the voters to support this amendment have failed, I believe that with a better campaign presentation, clearer ballot language, and the current popular support for regulatory reform, we can see this Constitutional Amendment become a reality.

<u>1980</u>	<u>1984</u>	<u>1986</u>	
58,808	91,174	65,176	Yea's
82,010	98,856	94,299	Nay's
140,818	190,030	159,475	Total Proposition Votes
162,653	213,173	182,526	Total Votes Cast
258,742	305,262	292,274	Total Registered Voters
63%	70%	62%	Voter Turnout

Alaska State Legislature



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720
(907) 465-2689

Official Business
Fax : (907) 465-3472

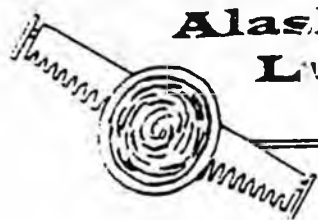
Speaker of the House of Representatives

MEMORANDUM

To :Senate Finance Committee
Fr :Representative Phillips
Date :February 1, 1996
Re :HJR 1 Witness List

The following people are expected to testify regarding HJR 1 during the February 1, 1996 Senate Judiciary Committee hearing:

- 1.) Jim Collard, Juneau Chamber of Commerce
- 2.) Pamela La Bolle, Alaska State Chamber of Commerce
- 3.) Thyes Shaub, Shaub & Associates



**Alaska
Lumbermen's
Association**

P.O. Box 7135 Ketchikan, AK 99901 (907) 247-2088 Fax: (907) 247-2692

**POSITION OF THE ALASKA LUMBERMEN'S ASSOCIATION
REGARDING HJR 1
MARCH 7, 1995**

My name is Cliff Skillings, Executive Director of the Alaska Lumbermen's Association. Observing the advice of Thyes, I will keep this testimony brief. On behalf of the Alaska Lumbermen's Association, I would like to thank the House Judiciary Committee for allowing us the opportunity to voice support for House Joint Resolution 1 which proposes an amendment to the constitution of the State of Alaska relating to the repeal of regulations by the Legislature. It is extremely pertinent that the Alaska Legislature, comprising of the people's elected officials, have the power to impose legislative oversight with the option to repeal, those regulations adopted by a State Department or agency which pose excessiveness and inconsistency with current statutes. HJR 1 merits a vote by the people of the State of Alaska.

WHITESTONE SOUTHEAST LOGGING COMPANY

P.O. BOX 389
HOONAH, AK 99829
PHONE: (907) 945-3626
FAX: (907) 945-3533

Representative Gail Phillips
Alaska State Legislature
Juneau, Alaska

Dear Representative Phillips:

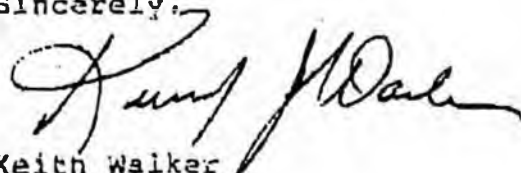
It is a sorry state of affairs when the elected government of the people has to amend the Constitution to get free of regulatory strangulation.

Many of the States regulatory agencies, most notably the ADF&G, operate as autonomous kingdoms, producing regulations that promote the power and authority of the agency, rather than to pursue the intent of the peoples representatives.

Over the last few decades we have seen the evolution of a judicial system that actively promotes social change by judicial fiat rather than change by amending the Constitution.

I believe that it is time for the peoples representatives regained control of the government. I support your Bill HJR1

Sincerely,



Keith Walker
Owner

March 7, 1995

KFP
Koncor Forest Products Company

3501 Denali, Suite 202
Anchorage, Alaska 99503
(907) 562-3335 FAX (907) 562-0599

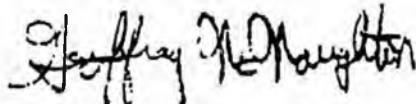
Representative Gail Phillips
Alaska State Legislature

Via FAX

Dear Representative Phillips:

We are pleased that you have introduced House Joint Resolution No. 1 proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the Legislature. This resolution is desirable because it would allow the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes. It also allows for greater public participation and control of government, and must first be passed by the people as a constitutional amendment. Please contact me if I can be of any help.

Sincerely,



Geoffrey McNaughton, Ph.D.
Environmental Manager

KP Ketchikan Pulp Company

A wholly owned subsidiary of Lasker-Peppis Corporation

Post Office Box 6600
Ketchikan, Alaska 99901
USA
TEL 907/225-2151
FAX 907/225-8260

POSITION OF THE KETCHIKAN PULP COMPANY REGARDING HJR 1 MARCH 7, 1995

The Ketchikan Pulp Company supports HJR 1 which proposes an amendment to the Constitution of the State of Alaska relating to the repeal of regulations by the Legislature. It is our experience that greater legislative oversight, and option for repeal of excessive regulations, is needed to insure the proper desire of the Legislature is achieved.

There is a tremendous volume of regulations produced each year which are beyond the checks and balances which are part of the legislative process. It is essential that the elected leaders of Alaska, rather than the faceless bureaucracy, have the final say on the laws of the land and the regulations which implement those laws. HJR 1 is the proper check and balance which is needed to our Constitution.

HJR 1 is a straight forward and clearly worded proposal to the Alaska Constitution. HJR 1 deserves to be put before the public.

OPERATING DIVISIONS

WAPIC COVE PULP MILL
TACOMA BAY LOG

KETCHIKAN SAWMILL
LUXEMAN LOG
ADUKATI LOG

ANNETTE HEALOCK SAWMILL
EL CAPITAN LOG

03/march/10bjr/1



**POSITION PAPER
ALASKA FOREST ASSOCIATION, INC.**

HOUSE JOINT RESOLUTION NO.1

TITLE: "PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO REPEAL OF REGULATIONS BY THE LEGISLATURE."

This joint resolution is a proposal to place a Constitutional Amendment before the voters of the State of Alaska on the 1996 General Election ballot. The Amendment would permit the Legislature to repeal regulations promulgated by state agencies that do not properly implement state statutes.

This resolution would allow the intent of the legislature to more accurately be reflected in rules carrying out the laws of the State of Alaska.

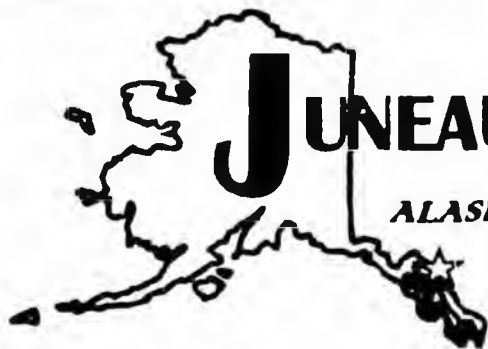
The Alaska Forest Association, Inc. strongly supports passage of HJR-1 for the following reasons:

A. The procedural, regulatory and judicial framework that has developed in response to the complex array of state laws imposes actions never envisioned by those who wrote the law. If the amendment is approved the legislature would have the ability to suspend application of law, by repeal of offensive regulations, until new regulations could be written which more accurately reflected the will and intent of lawmakers.

B. The resolution recognizes that the legislative branch of government is at a disadvantage versus the other two co-equal branches in that statutes envisioned by the legislature can be significantly altered in application and effect by the way that the then-present administration chooses to implement the law through regulations.

C. Approving this amendment would allow the legislature to reconsider laws in the light of their total impact on Alaskans. Once the system of implementation is understood, reasonable lawmakers may choose to repeal statutes where implementation of seemingly good public law is, in fact, untenable to normal citizens.

The Alaska Forest Association urges your support of HJR-1.



JUNEAU CHAMBER OF COMMERCE

ALASKA'S CAPITAL CITY

March 8, 1995

Testimony before House Judiciary Committee
Supporting HJR 1

My name is Chuck Achberger and I am the Executive Director of the Juneau Chamber of Commerce, and also a member representing the Alaska State Chamber of Commerce. We would like to go on the record today in support of HJR 1.

The cost of regulations in Alaska is becoming one of the biggest costs of doing business. While regulations are necessary, some make no sense or worse yet are being used by regulatory agencies as blunt instruments against business.

The act of writing regulations is often without public input, and with an eye to making life easier for the regulator than the citizen, this is just human nature.

What is truly disturbing is when a regulatory agency sets out to protect; the environment, you and me, etc. At this point an individual's bias often takes the regulation away from the intent of the law that was passed, in doing so they become the lawmakers.

HJR 1 would provide some recourse for both, you the legislature and your constituents to control some of these digressions, and return the making of laws to those elected to do the job.

Sincerely,

Chuck Achberger
Director

Headquarters:
217 2nd Street, Suite 201
Juneau, Alaska 99801
(907) 586-2323 FAX 463-5515



March 8, 1995

To members of the House Judiciary Committee

Regarding HJR 1

Recognizing the extent to which regulations are strangling our economy and our society, it is a priority of the Alaska State Chamber of Commerce to reform the regulatory process.

In providing for legislative repeal of harmful regulations by passage of a joint resolution by the House and Senate, HJR 1 is a step in the direction of lessening excessive and burdensome regulations.

The Alaska State Chamber of Commerce supports passage of HJR 1.

Sincerely,

Pamela Neal
Pamela Neal
President

StandUP!

For Sustainable
Jobs & Responsible
Resource Development

P.O. Box 23645, Ketchikan, AK 99901 • Phone (907) 225-8627 • Fax (907) 247-9675

March 14, 1995

The Honorable Gail Phillips
Speaker, House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips;


Stand UP! wishes to go on record in support of HJR 1, "PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO REPEAL OF REGULATIONS BY THE LEGISLATURE."

We are a community oriented grass-roots organization currently representing the united voices of 250 members region-wide, and growing. We advocate family, economic stability and responsible resource development.

Stand UP! believes that empowering the legislature with the authority to repeal regulations not reflecting original legislative intent is necessary, given the growth of stifling regulations. This resolution would allow the will of the legislative body to be reflected in regulations carrying out the policies they have drafted into law.

As advocates of the public process, we support HJR 1. Let the people direct by vote which body should have final interpretation of the will and intent of Alaskan lawmakers.

Sincerely yours,


K.A. Swiger
Executive Director

cc: Representative Bill Williams
Representative Jerry Markie
Representative Ben Grussendorf
Senator Robin Taylor
Alaska Forest Association
Shaub & Associates
"The Group"
Stand UP! Directors

P.S. J.C. Conley says "Go get 'em!"
if you need help call



ALASKA

Conference on Small Business

Recommendations and a Call to Action
by Alaska's Small Business Owners

*Sponsored and Made Possible
through the generous support of:*



Small Business
Development Committee
Anchorage Chamber of Commerce



KeyBank

"For small business, which is anything but small in importance...this is an era of unprecedented political opportunity and a time to assume the role of a giant force for change in the relationship between government and business...The voice of small business is one credible business interest that legislators want to hear...No party, agency or division of government, from the White House to the State House, can afford to alienate small business."

Charles A. Riley II,
Small Business, Big Politics

INTRODUCTION

On November 03, 1995, over 200 small business owners gathered at the Hotel Captain Cook in Anchorage, Alaska to participate in a statewide small business conference. The purpose of the Conference, organized by the Small Business Development Committee of the Anchorage Chamber of Commerce and generously underwritten by Key Bank, was to tap the insights, experiences and perspectives of a diverse group of small business owners toward the crafting of recommendations for changes in state government policy, programs and processes that will address the needs of small business and entrepreneurship in the year 2000 and beyond.

The Conference Planning Committee, comprised largely of Alaska's delegates to the 1995 White House Small Business Conference, modeled Alaska's Small Business Conference around the format of the successful national conference held in June 1995.

Authorities and pioneering practitioners in the fields of access to capital, regulatory reform, worker's compensation, procurement, and workforce development shared their expertise.

We are grateful to these participants as well as to other sponsors and advisers, including the University of Alaska Small Business Development Center, the Alaska Department of Commerce and Economic Development, Alaska Village Initiatives, Karl Brothers, Inc., GCI, ATT/Alascom and National Federation of Independent Business, who contributed to the success of the conference.

We hope that the recommendations included here will be given strong consideration by Governor Knowles and the 19th Alaska Legislature as they convene to shape the future of an Alaska that is not only "open for business," but is prepared to implement policies which will allow businesses here to compete in the global knowledge economy of the 21st century.

ALASKA SMALL BUSINESS CONFERENCE ISSUES AND RECOMMENDATIONS

REGULATORY REFORM

- The State of Alaska should establish a centralized, technical writing group to draft regulations to insure simplification of language and to provide coordination of proposals across department lines. Consumers should then have to submit only one copy of a report, which could then be distributed as necessary within the state. The group should review proposed regulations for the cumulative effect on business in addition to existing regulations from all state agencies. Regulations should be written so they are performance based, and reviewed by consumers for understandability.
- Proposed regulations should be disseminated through both public and private organizations, such as business license holders of affected business areas, local chambers of commerce, SBA, and so on. Information on proposed regulations should include an explanation of why the regulation is being proposed, who it would affect, etc.
- Compliance and enforcement of regulations should be consistently applied among all businesses, with penalties that promote compliance. The penalties should differentiate between ignorance and flagrant violations.
- Regulations should be repealed if the agency or department charged with compliance has been crippled by budget cuts or has been phased out.
- The Alaska Constitution should be amended to allow the legislature to annul regulations found to be improper or inconsistent with the intent of the law. Therefore, the legislature should pass HJR 1.
- The costs of litigation and liability insurance have a staggering impact to small business. Therefore the Alaska Legislature should pass Tort Reform legislation such as House Bill 158 which was introduced early in 1995.

CONTRACTS AND PROCUREMENT

- Alaska bidder, product preference and harvest laws should be maintained along with greater enforcement of eligibility requirements for the Alaska Bidders Preference statute. Additionally, when contracts are awarded to Outside business, they should be encouraged or required to use Alaskan subcontractors, as well as requiring that local made product suppliers are solicited before contracting to Outside bidders. Direct and indirect costs and benefits of each type of bidders preference should be tracked and analyzed. The state should tighten or eliminate the assignment and brokering of contracts to non-qualifying vendors where preferences are involved and ensure a commercially useful function is served when application of preference changes the award.

- In order to reduce paperwork, the state should institute electronic commerce and data interchange and fax bids for large and small purchases, as well as expanding credit card usage for simplification of selling to the government. Paperwork in all processes should be reduced, including adding mediation and simplifying appeals process. Additionally, the state should institute or facilitate an aggressive outreach program for educating bidders and contractors on government contracting.
- Because out of state vendors have an unfair advantage by not paying local or other in-state taxes, the state should require Outside vendors to pay all possible taxes, as well as increasing requirements for establishing residency as an Alaska bidder.

WORKERS COMPENSATION

- Classification ratings frequently do not properly reflect the level of risk or exposure. The State of Alaska should establish an independent council involving small businesses, independent insurance agents, labor, the National Council Compensation Insurance and the Workers' Compensation Committee of Alaska (WCCA) to set workers compensation rates.
- To limit unnecessary inflated costs of coverage, the term "injury" as defined in statute should be re-written to eliminate or limit employers paying for degenerative or pre-existing conditions; the employer should be notified of all claims; managed health care should be provided to control medical costs; pre-employment physical should be required; an employee contribution to medical costs should be required; and the statute of limitations should be strengthened.
- In the event a rate classification is under appeal, the employer should be required to pay the lower rate until the appeal is decided.

WORKFORCE DEVELOPMENT

- To alleviate escalating costs and enable small businesses to attract good workers, policy makers must create mechanisms that will better enable businesses to offer comprehensive employee benefits packages, including simplified retirement plans.
- Small business owners must ensure that both they and their employees have the training they need to meet the challenges of the global marketplace in the 21st century. Training in critical-thinking skills must be strengthened and students must be educated in the business-literacy skills of economics, technology, career-planning, entrepreneurship and other competencies needed in a world-class work force. Public private partnerships in education must be expanded; business participation in the classroom must be increased; business internships and mentoring programs must be expanded to provide students with initial work experience; the use of technology must be expanded; and the outcomes our work force will need must be articulated. The State of Alaska should adopt and fully implement the work plan proposed by the Alaska Human Resources Investment Council.

ACCESS TO CAPITAL

- The legislature should formulate laws that encourage investment in small business by increasing the AIDEA guarantee program in view of increased SBA loan costs; creating a required Small Business Development Center (SBDC) Certified Borrower status to borrow from state programs; creating a state revolving loan fund modeled on the Agricultural Loan Fund, for specific industries identified by the Marketing Alaska Survey and creating a Student Business Loan program modeled after the Student Education Loan to facilitate young entrepreneurs.
- The legislature should consider investing a portion of the Permanent Fund in small business; providing a corporate small business "mutual fund" for investment by state pensions thereby providing additional opportunities for capital.
- A comprehensive listing of all capital available through state programs should be made available and promotion and encouragement of a network of capital providers should be facilitated.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 29, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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☐ KEY BANK BUILDING
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☐ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Hon. Rick Halford
Senate Finance Committee
Alaska State Senate
State Capitol, Room 30
Juneau, AK 99801-1182

Re: HJR 1

Dear Senator Halford:

HJR 1 has been scheduled for review by the Senate Finance Committee for review. This letter is to express the Department of Law's opposition to HJR 1.

HJR 1 is a resolution to place before the voters for the fourth time in 15 years an amendment to the Constitution of the State of Alaska to allow repeal of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of our state constitution to allow the legislature, by joint resolution, to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass tight statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an executive-branch regulation is adopted, if the legislature believes that the regulation is not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the

legislature with the power to guide regulation formation.

2. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing regulations changes law. Our constitution presently grants the power to the legislature to change law by passing a bill, which is then subject to the governor's review and possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without that action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislative and executive branches.

3. By repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's law-making function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

4. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. The executive branch considers comments in the development of regulations. In this way, the legislature and the public have input into the regulation-adoption process.

5. The voters of Alaska have voted down this type of constitutional amendment three times in the last 15 years. We assume that the public means what its votes have indicated, and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

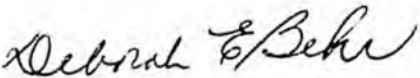
Hon. Rick Halford
Senate Finance Committee

Page 3

If you have additional questions, please let me know.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Representative Gail Phillips
Speaker of the House
State Capitol, Room 208

Representative Tom Brice
Alaska House of Representatives
State Capitol, Room 426

Bruce M. Botelho, Attorney General
Barbara J. Ritchie, Deputy Attorney General

Pat Pourchot, Legislative Administrator
Office of the Governor

Chrystal Smith
Legal Administrator
Attorney General's Office

BALLOT MEASURE NO. 2

HJR 1

Constitutional Amendment Legislative Annulment of Administrative Regulations (1986 Legislative Resolve No. 60 HCS SJR 40 [Jud] am H)

BALLOT LANGUAGE

(As it will appear on the November 4, 1986, General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive branch regulations by passing a resolution that is not subject to veto by the governor or repeal by referendum. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals.

A vote "FOR" adopts the amendment.

FOR

A vote "AGAINST" rejects the amendment.

AGAINST

VOTES CAST BY MEMBERS OF THE 14TH ALASKA LEGISLATURE ON FINAL PASSAGE

House:	Yeas	31
	Nays	4
	Absent or Not Voting	5
Senate:	Yeas	17
	Nays	0
	Absent or Not Voting	3

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(HCS SJR 40 [Jud] am H)

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by its adoption of a concurrent resolution. Under the present provisions of the constitution, the legislature may annul a regulation only by the enactment of a bill that is subject to the veto of the governor; if the governor vetoes the bill, the constitution now requires a two-thirds affirmative vote of the legislature assembled in joint session to override the veto.

If the legislature adopts a concurrent resolution to annul a regulation under the authority proposed, the annulment would be effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specified a different date. The concurrent resolution would not be subject to the veto of the governor. Adoption would require three readings in each house on three separate days except that it may be advanced from second to third reading on the same day by the concurrence of three-fourths of the membership of the house considering it. Action would require approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

(This amendment would add the following section to article II of the Alaska Constitution.) - -

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

BALLOT MEASURE NO. 2

STATEMENT IN SUPPORT OF BALLOT MEASURE NO. 2

The issue is basically simple: should bureaucrats or the Legislature be the ultimate lawmaking authority?

All 60 members of the Legislature (40 House and 20 Senate) are elected by the people. They are all voted into and out of office by individual voters. The Alaska Constitution says, "The legislative (i.e., lawmaking) power of the State is vested in a Legislature consisting of a Senate... and a House of Representatives..." The Legislature proposes, considers, and enacts laws, known collectively as the Alaska Statutes (if general and permanent) or as the Session Laws of Alaska (if specific and temporary).

All bureaucrats who promulgate (i.e., enact and enforce) regulations (theoretically, to put laws into effect) are in the Executive Branch, headed by the Governor. Bureaucrats are not voted into office and thus cannot be removed by the people. Instead, bureaucrats are hired by the Governor or by his/her appointees, and thus can only be removed from office by the Governor or by somebody answerable to him/her. However, the regulations promulgated by the bureaucrats, known collectively as the Alaska Administrative Code, have the force of law and affect all of us, sometimes adversely.

What can be done about a law that's bad? It can be repealed by the Legislature or, in some cases, by the people directly via an initiative petition.

What about a regulation that's bad? It can only be repealed by the bureaucrats who promulgated it, up to and including the Governor. If the Legislature tries to repeal a regulation by passing a bill, the Governor will almost certainly (and always has, in the past) veto the bill so that the bad regulation stays in full force and effect.

Now, if the Legislature had the power to repeal regulations by passing a concurrent resolution (instead of a bill), then the resolution could not be vetoed by the Governor. Thus, the Legislature would be able to get rid of bad regulations, which in effect it cannot do now.

Would this give the Legislature too much power? Not hardly. Since the Legislature already has full power to enact laws, why shouldn't it have full power to repeal all laws, including regulations?

Why do Governors and bureaucrats oppose giving the Legislature such regulatory repeal power? Because Governors and their handpicked bureaucrats, which are answerable only to the Governor (and cannot be removed by the people, which can remove Legislators), don't want to lose the power they now have to promulgate and enforce any regulation they want. It's that simple.

If you feel that the Legislature should have the power to repeal regulations via concurrent resolution (not vetoable by the Governor), vote FOR the ballot measure. If you feel that bureaucrats should be the ultimate lawmaking authority, vote otherwise.

I recommend that you vote FOR. Only in this way will we realistically be able to get rid of bad regulations.

Andre Marrou
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 2

For the third time in six years, the legislature insists on confronting the voters with a proposed constitutional amendment giving the legislature a short-cut to law-making—another attempt by the legislature to concentrate governmental power in its own hands. The voters rejected a similar proposal in 1980 and the identical proposal in 1984. It should be rejected again.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. Regulations are adopted to implement statutes. They have the force of law. Annulling them changes the law. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that would be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power between the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation, and it would empower the legislature to act in place of the executive by reversing a specific executive-branch decision.

In its intent statement accompanying this proposal, the legislature admitted that the "difficulty in achieving [the two-thirds] majority [to override a veto] in opposition to the governor and the governor's administration has led the legislature to propose this amendment." In other words, the fear that the governor might veto a bill and that not enough legislators would agree to override that veto prompted this short-cut approach to law-making. That fear overlooks the governor's accountability to the voters throughout the state.

The annulment is like a repeal. The legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. The legislature would be saying to the agency "your decision to adopt that regulation is wrong." But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive-branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the constitution's checks and balances on its power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As mentioned when the voters rejected the 1980 and 1984 proposals, this amendment would aid legislators, not the public, and it should be rejected.

Katherine D. Nordale
Delegate to the Alaska
Constitutional Convention, 1955-1956

MEASURE NO. 1

Constitutional Amendment

LEGISLATIVE ANNULMENT OF ADMINISTRATIVE REGULATIONS (1983 Legislative Resolve No. 15 (SCS HJR 5(Jud)))

SUMMARY

(As it will appear on the November 6, 1984 General Election Ballot)

This amendment of the Alaska Constitution would permit the legislature to annul executive-branch regulations by passing a resolution. The annulment would become effective 30 days after passage by the legislature, unless the resolution sets a different date. The resolution must have three readings in each house on separate days, except that it may be advanced from second to third reading on the same day by a three-fourths vote of the house considering it. The resolution must receive approval of a majority of the membership of each house. The yeas and nays on final passage must be entered in the legislative journals. The resolution is not subject to veto by the governor, and it is not subject to repeal by referendum.

BALLOT FORM:

A vote "FOR" adopts the amendment.
A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTES CAST BY MEMBERS OF THE 13TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas 19	Nays 0	Absent or Not Voting 1
House	(40 members):	Yeas 34	Nays 2	Absent or Not Voting 4

LEGISLATIVE AFFAIRS AGENCY SUMMARY *(As required by law)*

This proposal for a constitutional amendment would allow the legislature to annul a regulation adopted by a state department or agency by concurrent resolution. The annulment is effective thirty days after the date the concurrent resolution is approved by both houses unless the resolution specifies a different date. Adoption requires three readings in each house on three separate days except it may be advanced from second to third reading on the same day by concurrence of three-fourths of the membership of the house considering it. Adoption requires approval by a majority vote of the membership of each house. The vote on final passage must be entered into the journal.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT - - *(This amendment would add the following section to article II of the Alaska Constitution.)*

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by concurrent resolution may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective thirty days after the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date. The concurrent resolution requires three readings in each house on three separate days, except that it may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it, and approval by a majority vote of the membership of each house. The yeas and nays on final passage shall be entered into the journal.

STATEMENT IN FAVOR OF BALLOT MEASURE NO. 1

Voters who have ever experienced irritation or anger as a result of a problem they have had with state regulations should vote in favor of Ballot Measure No. 1. While many regulations do conform to and support state laws, there are occasionally regulations which are imposed that go beyond the intent of the law and cause undue hardship on our citizens. These regulations often make no sense at all, state agency people are often at a loss to explain the meaning or sense of the regulations, and yet the state agencies involved continue to enforce them, and voters are powerless to change them.

The Alaska Constitution, patterned essentially upon the Constitution of the United States and the experience of the other states, provides a system of checks and balances among the three branches of government, and further entitles the people to their own checks and balances through the voting booth, the initiative process, and final authority over amendments to the constitution. The one major area of government that is currently not directly accessible to the people's checks and balances is the very considerable volume of administrative regulations which are written by the state agencies in the executive branch of government.

These regulations deal with every aspect of government and our lives: fish and game, education, health and social services, traffic, land development, utilities, taxes; the list is endless. And once the regulations go into effect, they have all the force of law. The problem is, that unlike the situation that occurs with laws, the agency people who make and enforce regulations are not subject to voter approval at election time; they are either appointed by the governor or by his commissioners.

While the legislature is often made aware of foolish bureaucratic requirements by unhappy constituents, it is almost powerless to do anything about them. Currently, to annul a regulation, the legislature must pass a new bill which is then subject to veto by the governor. This puts the governor in the powerful position of being able to stop a bill that would overturn a regulation made by his own subordinates.

It was never intended by the framers of our State Constitution that any governmental body except the legislature have the power to make laws. Yet, bad regulations have been written, on occasion by state agencies, which go beyond the letter and intent of the law as passed by the legislature and in effect create law on their own.

This measure would provide a reasonable avenue for annulment of bad regulations. It would allow your elected representatives in the legislature, through a majority vote of both houses, to annul regulations in the same way they pass any legislative bill, except it would not be subject to veto by the governor, who clearly has a biased position in the matter.

The House Joint Resolution which created the ballot measure had bi-partisan sponsorship during the last legislative session, and was passed with near-unanimous support by both houses of the legislature.

—Mike Szymanski,
State Representative

STATEMENT OPPOSING BALLOT MEASURE NO. 1

This proposed amendment to the Alaska Constitution is very similar to the one proposed in 1980 and rejected by the voters 82,010 to 58,808. Although the present version includes some improvements over the 1980 version, it is another attempt by the legislature to concentrate governmental power in its own hands.

Under the current constitution and statutes, the legislature has all the power it needs to make laws and to limit or guide the adoption of administrative regulations. The regulations are adopted to implement statutes. This proposal would enable legislators to use a law-making procedure that is not subject to veto by the governor or repeal by referendum, and that could be used to ignore the prohibition against special and local legislation.

The constitution now provides for a balance of power among the legislative, executive, and judicial branches of the government. This balance requires a blending or sharing, as well as a dividing, of governmental responsibilities. If this constitutional amendment were to be approved by the voters, it would enable the legislature not only to write the laws, as has traditionally been the legislature's function, but it would also enable the legislature to act in place of the courts in deciding whether the executive has lawfully executed the laws when adopting a regulation; and it would empower the legislature to act in place of the executive by nullifying a specific executive-branch decision.

The annulment is like a repeal. In using this expedited procedure to annul a regulation, the legislature would act only in a negative way. It would not be providing the sort of policy guidance and direction that is appropriate to its law-making function. And it would not be providing the thoughtful analysis necessary to solve a problem. The legislature would be saying to the agency "your decision to adopt that regulation is wrong". But it would not be telling the agency what would be right. This is especially troublesome when dealing with a complex subject. Without any guidance beyond the statute that the executive branch agency was trying to implement in the first place, the agency is left with only the option to guess again. That is neither an efficient nor an appropriate way to run the government.

The Alaska Supreme Court has ruled that the legislature must abide by the Constitution's checks and balances on its power when it exercises that power, including when it acts to annul regulations. The present proposal is intended to overrule the court's decision. As argued four years ago, when the voters rejected the 1980 proposal, this amendment would aid legislators, not the public, and it should be rejected.

—Katherine D. Nordale,
Delegate to the Alaska Constitutional Convention, 1955-1956

BALLOT PROPOSITION NO. 1

LEGISLATIVE ANNULMENT OF REGULATIONS Constitutional Amendment

(Committee Substitute for House Joint Resolution No. 82 Amended)

SUMMARY

(As it will appear on the November 4, 1980 General Election Ballot)

This proposal would permit the legislature to annul, by adopting a resolution, regulations adopted by state agencies. Annulment of regulations by resolution was authorized by the First State Legislature in 1959; however, in 1980 the Alaska Supreme Court held that the constitution permits the legislature to annul a regulation only by passing a bill, which requires three readings of the bill and a roll call vote which is recorded. The procedures for adopting resolutions are governed by legislative rules and require only the approval of the resolution by voice vote of a majority of both houses. A bill passed by the legislature annulling a regulation could be vetoed by the governor or repealed by referendum. A resolution annulling a regulation could not.

BALLOT FORM:

A vote "FOR" adopts the amendment.

A vote "AGAINST" rejects the amendment.

FOR
AGAINST

VOTE CAST BY MEMBERS OF 11TH STATE LEGISLATURE ON FINAL PASSAGE

Senate	(20 members):	Yeas <u>18</u>	Nays <u>0</u>	Absent or Not Voting <u>2</u>
House	(40 members):	Yeas <u>36</u>	Nays <u>0</u>	Absent or Not Voting <u>4</u>

LEGISLATIVE AFFAIRS AGENCY SUMMARY

(As required by law)

This proposal would add a new section, section 22, to Article II of the state constitution. If adopted, the proposal would authorize the legislature to annul or set aside a regulation which has been adopted by a state department or agency. In order to annul a regulation, the legislature could adopt a concurrent resolution by approval of the resolution by majority vote of the membership of each house of the legislature. The resolution specifies the date on which the annulment of a regulation would take effect.

FULL TEXT OF PROPOSED CONSTITUTIONAL AMENDMENT

SECTION 22. ANNULMENT OF REGULATIONS. The legislature by a concurrent resolution approved by a majority vote of the membership of each house may annul a regulation adopted by a state department or agency. The annulment of the regulation is effective on the date the concurrent resolution is approved by both houses unless the concurrent resolution specifies a different date.

STATEMENT IN FAVOR OF BALLOT PROPOSITION NO. 1

The legislature, when it writes a law, cannot foresee all of the possible details involved in carrying it out. The appropriate administrative agency is therefore allowed to write regulations which spell out who does what, when, where, and how. If the agency does no more than this no problem is created.

Unfortunately agency regulations are not always consistent with the intent the legislature had in passing the law. Sometimes an agency will get carried away and put out regulations that cause an unnecessary burden for the citizens. The First State Legislature realized this and provided a simple solution. The legislature could, by a concurrent resolution passed by a majority of each house, annul an administrative regulation. Such a resolution is not subject to the governor's veto.

The Alaska Supreme Court recently held, in a 3-2 decision, that the legislature must use a bill rather than a resolution to annul administrative regulations. But a bill is subject to

the governor's veto. The governor can hardly be expected to approve a bill overruling his subordinates, who put out the regulation in the first place. The present governor has already vetoed one such bill.

The court ruling gives agency regulations equal standing with laws, even though no single person elected by the voters has approved them.

Our government is wisely based on dividing power among the three branches: legislative, executive and judicial. The current situation gives entirely too much power to the executive branch. Your approval of this constitutional amendment will restore the better balance under which the state operated from 1961 to 1980.

— Charles H. Parr
Chairman, House Judiciary Committee
Alaska State Legislature

STATEMENT AGAINST BALLOT PROPOSITION NO. 1

This is still another proposal by the legislature to free itself from the checks and balances of our constitution. Under the constitution, the legislature has all the power it needs to make laws and annul administrative regulations. This proposal does not aid the public in any way. What it does is allow the legislature to exercise its power to annul regulations in disregard of the constitutional requirements that each bill have a single subject, that each bill have three readings in each house, and that there be a recorded vote of the ayes and nays on final passage. It would also free the legislature from the executive veto and it would allow it to ignore the prohibition against special and local legislation.

The Alaska Supreme Court has recently ruled that the legislature must abide by the constitution's checks and balances on its power whenever it exercises that power, including when it acts to annul regulations. This amendment is intended to overrule the court's decision and erode the constitution's safeguards. It aids legislators, not the public, and it should be rejected.

— Katherine D. Nordale
Delegate to the Alaska
Constitutional Convention,
1955-1956

SENATE COMMITTEE REPORT

DATE: 3/28/95

FURTHER: Finance

DATE TURNED INTO OFFICE: 4-22-95

Open

Judiciary Committee considered HOUSE JOINT RESOLUTION NO. 1

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

P H & DFN '15

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO, PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>Al Adams</i>		<input checked="" type="checkbox"/>	
<i>Lynn Green</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Adrian Taylor</i>	<input checked="" type="checkbox"/>				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>Law</i>	<i>2/13/95</i>	<input checked="" type="checkbox"/>	
<i>elections</i>	<i>3/22/95</i>		2.2

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill